

REMARKS

Applicants appreciate the courtesies extended to their representatives, Allan A. Fanucci and Lance J. Baresic, by Examiner Alexander Markoff during a telephone interview on August 19, 2010. The comments appearing herein are essentially the same as those presented and discussed with the Examiner during the interview.

Claims 23, 29-31, 35-37, 42, 47, 48, 50-58, 60-62 and 67-68 are presented in this application. Claims 23, 30, 36, 42, 47, 51, 58, 62, and 67 have been currently amended for clarification: no new matter has been introduced. In particular, in each of independent claims 23, 58 and 62, the dispensing patent portion that is cleaned with the cleansing solution and that is subsequently sterilized with hot water are recited more specifically. Also, the rinsing step is now specifically recited as occurring prior to the dispensing of further food or food products, and that the water is heated upstream of the mixing bowl to the temperature which is sufficient to sanitize. No new matter has been entered since these features were previously cited inferentially by the previous claims. In addition, claims 30 and 67 have been amended to cover a preferred embodiment wherein the cleansing fluid is heated. Claims 36, 42 and 47 were amended to change the term "first mechanism" to "food delivery mechanism" to provide a more precise antecedent basis. Claim 47 was also amended to remove the sanitizing operation, as it has already been specified. Claim 51 was amended to remove the redundant term "through the cleansing fluid path" and to recite that an inline heater is present upstream of the mixing bowl to heat either the cleansing fluid or the rinsing water, or both. Claim 58 has been amended to further clarify that the cleansing fluid path flows from the cleansing fluid supply, located internally, through the mixing bowl, through the food dispensing path, and exiting through the food delivery outlet, where it is recirculated back to the cleansing fluid supply. Claim 68 is a new claim that recites an inline heater as previously recited in claim 51. As no new matter is introduced by these amendments, they all should be entered at this time.

Claims 23, 29-31, 35-37, 42, 47, 48, 50-58, 60-62 and 67 were rejected under 35 U.S.C. §103(c) as being unpatentable over the combination of US patent 4,860,550 to Aoki et al. ("Aoki") with either of US patents 5,329,950 to Barinas or 6,564,698 to Rolland for the reasons set forth on pages 3-4 of the office action.

Applicants repeat and expressly adopt herein the comments made in response to the previous office action regarding these references. To further distinguish the claims from Aoki, a number of amendments were made to the independent claims as noted herein.

Claims 23, 58 and 62 have been amended to further clarify that the cleansing fluid supply is located internally in the dispenser, and that the dispensing path extends from the mixing bowl, through the dispensing conduit to the delivery outlet. Also, the cleansing fluid is recirculated. In addition, these independent claims were amended to specify that the rinsing fluid follows the same path, to conduct a sanitizing operation of the cleaned portion of the path before dispensing further foods or food products, and that the water is heated upstream of the mixing bowl to the temperature which is sufficient to sanitize.

Aoki relates to an apparatus for preparing ice creams, wherein a freezing cylinder is constituted such that a liquid mix supplied from a mix tank is stirred in a stirring apparatus that is installed in the inside of the freezing cylinder, and refrigerated for dispensing through a dispensing port. For the cleaning and sterilization of the inside of the cylinder (9), water is added and is heated by reversing the flow of heat media. Thus, Aoki describes an ice-cream dispenser which can be operated according to three sequential operations (col.10 l.36-39):

- before opening the store, the dispenser is sterilized by introducing a sterilizing-washing agent in the flavor (syrup) tanks and launching the sterilization operation (col.10 l.52-68). The agent is then drained and the lines are washed with prepared warm water from another source (col. 12, l. 17 to col.14 l.23) and flavors are introduced in the tanks for preparing the dispenser for delivering ice-creams (col.15 l.5-col.16 l.37). The warm water does not sterilize the tanks.

- during business hours, ice-cream is delivered by the dispenser (col.16 l.38-col.19 l.42),
- after closing the store, the lines are sterilized and washed with water (col. 19 l.43-48).

The liquid mix is discharged from the dispenser and a rinse is introduced in the mix tank (col.19 l.49-col.20 l.10). The rinse is then heated by reversing the refrigeration cycle and then discharging it after maintaining temperatures suitable for sterilization (col. 20 l.10), but this is done by adding water to the cylinder and then heating it to sterilization temperatures.

Thus, Aoki's device does not (1) periodically direct a cleansing fluid along the cleansing fluid path from the cleansing fluid supply located within the housing from the mixing bowl and through the dispensing conduit of the food delivery mechanism to the outlet along the component dispensing path to conduct a cleaning operation on at least that portion of the dispensing path

when the food or food component is not being dispensed, (b) recirculate the cleansing fluid within the housing and back to the cleansing fluid supply, and (c) rinse that portion of the dispensing path from the mixing bowl and through the dispensing conduit of the food delivery mechanism to the outlet with hot water alone after the cleaning operation to remove cleansing fluid therefrom to conduct a sanitizing operation, wherein the hot water is heated upstream of the mixing bowl to a temperature which is sufficient to sanitize the rinsed portion of the dispensing path before dispensing further food or food components as presently claimed.

Aoki also utilizes a storage tank (47) for water that is to be used for sterilization and cleaning. However, Aoki is very specific in stating that the purpose of this tank is to feed water to a heater, in which the water is then fed to the cavities behind the seal (46) in order to clean the portion of the shaft not in contact with the food product. Thus, the internal supply tank cited by Aoki is for the expressed purpose of cleansing areas not exposed to the food dispensing path. This is not used to clean the dispensing path as presently claimed.

As Aoki differs from the present claims for all these reasons, the Barinas and Rollins patents are cited in an attempt to remedy the deficiencies of Aoki.

Rolland discloses a valve assembly for use in clean-in-place systems that arrange multiple product blocking valves with one bleed valve. The valve assembly has a junction providing fluid communication between the primary isolation valve, the one bleed valve and the multiple product valves so that continuous flow cleaning capabilities can be provided.

Rolland's valve assembly is designed for cleaning vessels and containers used in batch processing systems. Again Rolland implements several stages of operation (see par. [0025]):

- the batch processing in the container (vat),
- the cleaning of the container, and
- the cleaning of the lines.

The product processed in the vat must be transferred and isolated in a curd transfer reservoir during the cleaning of the container and the lines. Thus, like Aoki, Rolland is not adapted to the alternate dispensing and cleaning processes in a food dispenser according to the present invention, wherein the method provides for switching between the dispensing of the food or food component and the conducting of the cleaning and sanitizing operations at a plurality of time intervals without having to connect an external source of cleaning fluid to the dispensing path each time cleaning is needed. In this regard, Rolland is similar to Aoki because each

reference requires the addition of a separate cleaning solution when cleaning is required. Thus, Rolland does not remedy the deficiencies of Aoki, such that the combination of Rolland and Aoki does not result in the presently claimed invention. This rejection should be withdrawn.

Barinas also does nothing to remedy the deficiencies of Aoki. Barinas discloses automatic, self-contained cleaning and sanitizing equipment that includes a first liquid holding tank for a cleaning solution and a second liquid holding tank for a sanitizing solution. A cleaning line runs from the first tank and has an outlet adapted for connection to an item to be cleaned, and a cleaning return line runs back to the first tank and has an inlet adapted for connection to the item to be cleaned. A sanitizing line runs from the second tank and has an outlet connected directly to the item to be cleaned, or to the cleaning line so as to create a common connection to the item to be cleaned, and a sanitizing return line runs back to the second tank directly from the item to be cleaned, or from the cleaning return line so as to create a common connection running from the item to be cleaned. There is a first pump connected to the equipment for circulating liquid from the first tank to the item to be cleaned and back to the first tank through the cleaning return line and a second pump connected to the system for circulating liquid from the second tank to the item to be cleaned and back to the second tank through the sanitizing return line. Ozone can be provided in the second tank or the sanitizing line.

The only apparently relevant disclosure in Barinas or Rolland is the recirculation of the cleaning and sanitizing fluids through the food or beverage device. Even if this is combined with Aoki, one would still not obtain the present invention for the reasons set forth above. Furthermore, Aoki cannot be modified for recirculation of cleaning fluid as he needs to use his syrup tanks to produce the ice cream product: he has no disclosure of a cleaning solution supply maintained within the unit except for that used to clean the cavities behind the seal of the shaft. If the recycled fluid was sent to that tank it would not be used to clean the dispensing path as claimed. Thus, Barinas or Rolland do not remedy the deficiency of Aoki with regard to the provision of a dispenser that includes both a source of food product and a source of cleansing fluid. In view of all these differences, the rejection based on the combination of Barinas and Aoki has been overcome and should be withdrawn.

In light of the foregoing, it is respectfully submitted that the entire application is believed to be in condition for allowance, early notice of which would be appreciated.

Respectfully submitted,



Allan A. Fanucci
Allan A. Fanucci, Reg. No. 30,256

Date: August 24, 2010

WINSTON & STRAWN LLP
Customer No. 28765
212-294-3311